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Gail S. Greenwood

May 23, 2023

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Via ECF

Hon. Paul R. Warren
U.S. Bankruptcy Court
Western District of New York
100 State Street
Rochester, NY 14614

Re: *In re Rochester Drug Cooperative, Inc.*
Adv. Pro. No. 22-2073

Dear Judge Warren:

This letter is sent jointly, on behalf of counsel for Advisory Trust Group, LLC (the "Trustee/Plaintiff") and the former directors (the "Defendants") in the above-referenced adversary proceeding. The parties want to pursue a mediation after three fact witness depositions per side, but before the completion of all depositions. Based on current schedules and despite vigorous efforts, the parties are unable to proceed with the six depositions and participate in mediation on a schedule that preserves the current trial dates. Therefore, in order to meaningfully engage a mediator and allow sufficient time to prepare for trial, the parties respectfully request that the Court approve the schedule below, including a continuance of the trial dates.¹

- Subject to the approval by the Court, including the trial dates, the parties stipulate to extend the fact discovery deadline of July 1, 2023 solely for completion of noticed depositions until **February 29, 2024**. The parties also stipulate that the Trustee/Plaintiff and the Defendants may take more than ten depositions subject to the terms herein.

¹ Dates in bold reflect changes to the current *Trial Scheduling Order* [Docket No. 87].



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- No later than June 15, 2023, the parties will select a mediator, with each side proposing a maximum of three candidates, with the cost of the mediator to be split 50% to the Trustee/Plaintiff and 50% to the Defendants.
- The mediator and a mediation date shall be agreed to and confirmed by June 30, 2023.
- Mediation shall take place in Manhattan, NY and shall occur and be completed between October 25, 2023 and November 17, 2023. All parties and their counsel, and any participating insurer and its counsel, must be present in person. The Trustee/Plaintiff will propose mediation dates to the Defendants' counsel by June 1, 2023.
- All fact witness depositions, including non-parties, must be properly noticed by June 23, 2023 and served by June 30, 2023.
- In advance of the mediation, between July 10, 2023 and September 15, 2023, the Trustee/Plaintiff and the Defendants may each take up to three depositions (for a total of up to six depositions). Each side shall identify its deponents by June 21, 2023, and notice such depositions by June 23, 2023. The parties will promptly confer to confirm a schedule for completion of all such pre-mediation depositions between July 10, 2023 and September 15, 2023, such that all dates will be confirmed by June 30, 2023.
- All remaining fact witness depositions noticed and served as of June 30, 2023 shall commence after December 1, 2023 and shall be completed by **February 29, 2023**. The parties will confer no later than September 29, 2023 to confirm a complete fact witness deposition schedule so that all remaining fact witness depositions shall occur during this three month period.
- The parties agree to extend the dates for expert discovery such that: expert disclosures per 7026(a)(2) must be exchanged by **March 15, 2024**; any expert reports intended for rebuttal must be exchanged by **April 15, 2024**; and all expert discovery must be completed by **May 31, 2024**.



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- Trial is currently scheduled on April 23-26, 2024. The parties request 4 days for **trial between August 19, 2024 and September 13, 2024.**
- Unless otherwise indicated, all other dates set forth in the *Trial Scheduling Order* remain in place.

We appreciate the Court's consideration of these issues.

Very truly yours,

Gail S. Greenwood

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